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# The Christian Science Child: Subjectivity and Social Marginalization

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# **Honors Paper**

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**Title: The Christian Science Child: Subjectivity and Social Marginalization**

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## The Christian Science Child: Subjectivity and Social Marginalization

“But you cannot leave the scene of the crime without hearing from the aggrieved... So I wanted her to come into that book, not only as the history everybody is trying to forget, but as the child who was speaking.”

-Toni Morrison on *Beloved*, Macalester College, 9/5/06

Court cases that receive sustained national attention do so because they capture a tension that is of concern to the society at large. Some cases are infamous because of their sensational character; others because they are sites in which constitutive values come into conflict. The defendant is not singularly on trial; the values and prejudices of society are themselves taken to the proverbial scales to be measured and judged. The arguments of the trial set the frame for discussion and debate among political pundits, media personalities, and the public, more generally. Society as a whole becomes a jury; individuals prosecute and acquit in editorials, on talk shows, and during lunch breaks as they see fit. By looking at the discourses created during such court cases, one can learn a great deal about the popular sentiments and the vexing questions that are in the forefront of national consciousness. But what is not said— what is left out of the debate and discussion— is perhaps even more significant in discerning the assumptions and modes of society’s thought. What questions are left unresolved, or more dramatically, never entertained at all? Who is silenced? Who is never allowed to speak?

Trials involving Christian Science parents exemplify such cases. Media representations configure these cases as both sensational (i.e. parents martyr their children for their own dangerous religious purposes) and complicated (i.e. basic

constitutional issues need consideration). In the wake Commonwealth of Massachusetts vs. Twitchell<sup>1</sup>, *The New York Times* provides examples of both of these representations. In the August 6, 1990 edition, an anonymous article entitled “Suffering Unrelieved” opens, “The Christian Science prosecutions are united by common, horrific facts.” The article describes the ailments and pain children must have suffered having been denied bio-medical treatment. The article’s audience is meant to recoil at the thought of these victims suffering needlessly at the sadistic wills of their parents. After each description of the child’s illness, the author tells how each case was decided; the juxtaposition of an innocent sufferer and the acquittal of the criminal creates a sense of moral outrage and indignation in the reader. In an article appearing in the same edition of *The New York Times*, David Margolick reports on the prosecution of Ginger and David Twitchell for the involuntary manslaughter of their son, Robyn, as one that involves fundamental constitutional questions: “The prosecutions, like many historical constitutional cases, represent a clash of apparent absolutes: of religious liberty and parental autonomy on the one hand and the right of the states to protect children—and the rights of the children themselves—on the other.”

Court cases involving Christian Science parents provide a moment of public consideration of the limits and hierarchy of rights of the citizen and of the State. These cases exemplify the didactic purpose of punishment, not only of those on trial but for the public more broadly. In these public lessons, the child is taken for granted as a morally

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<sup>1</sup> This case was prosecuted in the very shadow of the Christian Science Mother Church in Boston, Massachusetts. While the state of Massachusetts had in its constitution a clause that protected Christian Science parents under child neglect statutes, David and Ginger Twitchell were accused of manslaughter of their son, Robyn, after he died of an obstructed bowel in 1986. They were found guilty, sentenced to probation and directed to give their other children bio-medical care. The Twitchells appealed their case and a higher court decided in their favor, citing due process infringement.

and religiously neutral subject. It is the status of the missing child as a possible religious subject that I propose to explore in order to complicate discourse surrounding these cases and the child in general.

These court cases provide public lessons that codify public morality on the limits of religious freedom, particularly in relation to children, and our understandings of childhood and the child. In *Discipline and Punish*, Michael Foucault uncovers the didactic purpose of eighteenth century Europe's ceremony of public punishment. Rather than the exclusive right of the sovereign, the right to punish was reformed as the right of society, as a privilege of the social contract that citizens must commit to as members of a society. The public punishment was an event in which the code was reaffirmed and articulated more precisely:

Hence a whole learned economy of publicity. In physical torture, the example was based on terror: physical fear, collective horror, images that must be engraved on the memories of the spectator, like the brand on the cheek or shoulder of the condemned man. The example is now based on the lesson, the discourse, the decipherable sign, the representation of public morality. It is no longer the terrifying restoration of sovereignty that will sustain the ceremony of punishment, but the reactivation of the code, the collective reinforcement of the link between the idea of the crime and the idea of the punishment...This legible lesson, this ritual recoding, must be repeated as often as possible; the punishments must be a school rather than a festival; an ever-open book rather than a ceremony (Foucault, 110-111).

Foucault further explains that this learned economy of public punishment has been replaced; the prison now hides punishment from the public eye (Foucault, 131). Perhaps the cause-effect relationship of crime and punishment is so well established in the mentality of the public it no longer needs public “ritual recoding”. However, this is not to say that the didacticism, the representation of public morality, has been eschewed by the processes of law. The example is no longer made at the site of punishment; it is made in the courthouse, and especially in the instance of Christian Science court cases, it is made publicly. In fact, the highly publicized trial and consequent public shaming was likely a greater punishment for grieving parents than were the actual sentences (which included fines, probation and injunctions to provide other children bio-medical care). In these cases, the prison is not the site where justice is distributed; the courtroom and the newspaper are the venues of justice.

The two articles mentioned above capture mainstream public response to the cases: moral condemnation and an understanding that key constitutional issues (religious liberty and the right to life) are at stake. These two responses are not necessarily incompatible; a popular argument against Christian Science spiritual healing demotes religious liberty when a child’s life is concerned. Religious liberty, while a fundamental right and good, has its limits when it comes to another person’s life. The social contract is renewed and it is a contract that makes parents, as citizens of a secular State, responsible to their children in ways that are appropriate in the view of a secular State. Society seems to have come to a relative consensus on a vexing issue.

The question of religious liberty and the State’s right to protect children is answered easily because certain questions are never entertained. David Margolick aligns

children's rights with state's rights, never questioning the authority of the State to speak for the absent child. The anonymous author of "Suffering Unrelieved" does not consider whether or not twelve-year-old Elizabeth King<sup>2</sup> could have decided the course of action for the developing tumor on her knee. It is difficult for the author to imagine a child actively choosing spiritual healing or having any choice at all in the medical decisions affecting her body. Discussion of religious belief centers exclusively on that of the parents and never seeks to include the children directly involved. Even commentary that is primarily concerned with rights to religion is guilty of this oversight. Martha Minow argues that, "when asking how much parents may impose their religious beliefs on their children, state officials tend to neglect how much the state imposes secular beliefs on parents," (Minow, 52). Missing here is the admission that the State imposes secular beliefs on children, perhaps more so than on parents. Nor does she recognize that religious upbringing is a form of socialization that could be incumbent on adults as religious adherents and parents or that any form of upbringing is in a sense an imposition on a child, that is, it is not an upbringing the child can actively choose. Possible assumptions underwriting the failure to acknowledge State imposition of secularism on children are that 1) children do not share the religious commitments of the community in

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<sup>2</sup> State of Arizona v. King. "This case arose in 1988 after the death from cancer of the thirteen year-old daughter of the King family. The parents were charged with negligent homicide and felonious child abuse, even though Arizona had an accommodation in its statute for spiritual healing. The negligent homicide charge was dropped as a result of an appeal to the state Supreme Court. In 1989 the parents decided to plea bargain their case, admitting to a lesser charge of child endangerment. They were sentenced to three years probation, with the sentence being reduced to a misdemeanor after successfully completing their probation. An odd circumstance associated with this case is that the Arizona Child Protective Services had taken the child from the parents in early 1988, and had kept her in custody for two days. After that time, they released the child to the parents, saying that there was nothing they could do for the child, who was terminally ill. Her parents took her to a Christian Science nursing home, where she lived for several more months before dying. The fact that the charges were brought after this episode was surprising and upsetting to all concerned, including the Christian Science Church." (Richardson, James. *Christian Science Spiritual Healing, the Law, and Public Opinion*. The Journal of Church and State, Vol. 34, Issue 3, 1992, p. 549).



which they grow up, 2) only adults have beliefs that could conflict with those of the State and thus, 3) children are, by default, secular.

Minow further argues, “Denying medical care critical to the child’s life may honor the parents’ religious beliefs, but this permits parents to martyr a child without giving that child the chance to embrace or reject those beliefs.” In the case of Robyn Twitchell, the child who died at the age of two from an obstructed bowel, I agree with her analysis, though I take issue with the language she uses<sup>3</sup>. At such an early stage of development and acculturation, we can safely assume that Robyn Twitchell had not come to understand himself in either religious or secular terms. On the other hand, one need not be at the age of majority in order to identify as religious or secular, to embrace or reject the beliefs of parents or the State. Can we imagine if Robyn Twitchell had an older sibling who objected to the court’s mandate that her parents provide medical attention for her? Can we imagine a young person with religious conviction akin to Christian Science parents? Can we imagine a child’s dissent against our attempts to secure for him what we understand to be in his best interests as legitimate?

Because the child is altogether absent in these court cases and their media representations, it is easy for both parents and the State to project onto the absent child their own interests. The child cannot be viewed other than as an extension of the authorities who wish to speak for her. These authorities claim to know and speak for those silenced; it is, in fact, requisite to being the authority to do so. Paradoxically, the children’s unknowability (absence and silence) obligates others in authority to speak on

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<sup>3</sup> Martyrdom is inappropriate to apply to Christian Science because death in this case is not a testament to the strength of one’s conviction; rather it shows the limitations and imperfections of the practice of spiritual healing. Christian Science parents’ pursuit of spiritual healing for their children is not analogous to Abraham’s binding of Isaac, in which mortal sacrifice was the expected outcome.

their behalf. In viewing children as extensions of the interests of those in authority, children are denied opaque subjectivity, a subjectivity unknowable to others. The child is vulnerable to mistreatment when an appreciation of the child as an opaque subject is absent. This mistreatment is not at all transparent, particularly at the level of the State because it defines the limits of knowledge and therefore claims in absolute terms the ability to know.

Under the State, the citizen is both a public and private self. In the United States, the child is not a full citizen, most obviously in that children cannot vote or enter into legal contracts. More covertly, children are denied a private self—a condition for being recognized as a subject—that would be unknowable to parents and the State. This denial of privacy obligates both the State and the parents to assume to know the interests of the child in order to act on behalf of their imagined interests. However both parents and the State understand the child's interests solely in terms of their own interests and roles in the child's life. Christian Science parents see themselves as stewards of God's gift (the child), and are ultimately concerned with the soul of the child. They necessarily attribute already existing spiritual subjectivity, a subjectivity they presume to know. Because of their own spiritual subjectivity and epistemological modes of thought, they subordinate or deny the relevance of the child's materiality. In contrast, the State understands the child as a potential citizen. As Joel Feinberg puts it, a child has the right to an open future, a future in which he will have certain rights. Parents and the State hold these rights, which include religious liberty, in trust until these children can exercise them fully as adults. Accordingly, the State is interested in protecting the development of the child into a full citizen with a private self that could have interests incomprehensible to the State (such as

Christian Science belief and practice). In contrast, the State can only accord an inner life—that is, a private life knowable through disclosure by the subject that could be understood as spiritual—as a potentiality, rather than an actuality for the child. Therefore, the State posits religious neutrality and elevates the biological life of the child—what is recognizable and knowable for a secular institution—as its highest priority. Both the parents and the State claim with credibility to hold the best interest of the child, especially in the case of the deceased child who is now utterly unknowable, and for whom each advocates in the courts. Neither can imagine this child as separate from themselves, in other words as a subject in her own right.

When a child is denied subjectivity, she is denied the ability to speak for herself. When others speak on her behalf, particularly those who are removed from the family and community in which she is raised, her plight as imagined by others becomes the site on which those who claim power can assert their values as normative, universally beneficial and applicable. The child is thus socially marginalized; rather than being an agent whose interests and values (however tentatively present) inform public perception, a mobilized public wishes to save her according to its own interest and values. The attribution of moral subjectivity to children counters these impulses. If we cannot project onto children are own interests, it limits our ability to manipulate children to create our own ends. Feinberg's treatment of the custody case of six-year-old Mark Painter of Ames, Iowa illustrates this point. His mother and sister died in a car accident and his father left Mark temporarily with his wealthy maternal grandparents on a large farm in Iowa so that he could build a new career in San Francisco. A year later the father remarried, and came back to take Mark to his new home in California. The grandparents

refused to give up custody of Mark and a lawsuit ensued. A lower court decision returning the boy to the custody of his natural father was eventually overturned by the state Supreme Court. The majority opinion of the Supreme Court concluded that the father's new home would not satisfy the child's right to well-rounded growth into full maturity. The opinion reads:

Our conclusion as to the type of home Mr. Painter would offer is based upon his Bohemian approach to finances and life in general... He is either an agnostic or an atheist and has no concern for formal religious training... He has read a lot of Zen Buddhism... and his new wife is a Roman Catholic... He is a political liberal and got into difficulty in a job at the University of Washington for the support of the activities of the ACLU... We believe the Painter household would be unstable, unconventional, arty, Bohemian and probably intellectually stimulating.

In contrast the grandparents' home would provide Mark "with a stable, dependable, conventional, middle-class, Middle West background." Clearly the judges in this case decided what they would want for themselves—a conventional, middle-class upbringing—would best serve the interests of the young Mark Painter. Their decision reflects *great* animosity towards unconventional lifestyles, deeming them unfit for the proper upbringing of children, and is likely a product of historical and political conflict. The case was tried in the early 1960s. Moreover, the court makes use of a key rhetorical tool in denouncing another's lifestyle in arguing that it is destructive to children.

In many instances, the upbringing of children becomes the site where cultural status is secured, particularly in cases of white, upper-middle class heterosexual people denouncing the family structures and childrearing practices of the lower class, people of

color, recent immigrants, single mothers and/or same-sex parents. In such cases, it is a projection of the values of cultural elites as normative which casts all other values as deviant and possibly destructive to children. Rarely do such projections contribute to the welfare of these children; rather they may produce what sociologists Richard Sennett and Jonathan Cobb have labeled “injured identities” stemming from internalized feelings of shame in one’s own heritage<sup>4</sup>.

But in the case of Christian Science, is the public dismay and indignation towards parents another projection of elite values? It is inconceivable for the majority of modern westerners to think of a child who died of a treatable ailment as anything but a victim as a fierce materialism informs western understandings of the body, sickness, health and ethics. At the same time, modern westerners—and perhaps Americans in particular—seem to recognize that there may be higher, abstract principles for which one would give up material life. There does not seem to be the same sense of bewilderment or outrage when an adult dies practicing his faith. It is not merely that Christian Science represents a metaphysics and epistemology so incongruent with modern western thought. What makes these cases so offensive is the assumption that children are morally and religiously neutral or naïve, and thus religious upbringing, especially when it is out of step with mainstream thought and values, is merely brainwashing. Do children possess the sophistication necessary to be considered religious or moral subjects? If so, at what age? How might the projection of moral and/or religious subjectivity change the way we as a society encounter children in the home, classroom or in court?

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<sup>4</sup> Samman, Khalidoun, paper given at Franz Fanon Conference 3/2007: Healing Injured Identities: Frantz Fanon and the Transcendence of Colonialist Binaries, pg. 1.

Conceptions of children as morally naïve underscore their social marginalization in American culture. Feminist and scholar of religion and psychology Bonnie Miller-McLemore remarks of her surprise when she came to appreciate the dynamics of caring for children: “I genuinely did not expect, I honestly admit, that each of my children would become such an intricate constellation of relationships, needs, demands, problems and gifts. Nor did I anticipate the development of an acute empathy for children as a silenced and overlooked group in society and in contemporary Christianity in particular,” (Miller-McLemore, xx). In her practical theology *Let the Children Come*, Miller-McLemore explores western historical revolutions in viewing children. She rejects notions of children as characteristically innocent or depraved; instead she argues for understanding children as “knowing.” She explains, “In place of the ideal of innocence, knowing children call into question children’s ‘psychic and sexual innocence by attributing to them consciously active minds and bodies,’” (Miller Mc-Lemore, 19). She argues that “children must be fully respected as persons, valued as gifts and viewed as agents,” (Miller Mc-Lemore, xxiii). Further she understands the work of childbearing and rearing as spiritual practice that should be located within Christian community. She resists conceptions of the immediate family as singularly involved in childcare and thus promotes the social visibility of children.

Miller-McLemore explores the shifting discourses and practices surrounding children and childrearing. She notes that children now live in household economies in which they are economic burdens in contrast to the seventeenth and eighteenth centuries during which children made invaluable material contributions to the household in terms of labor. According to her, modern discourse on children compensated for the economic

burden children present by fashioning them as emotionally priceless. Victorian ideals and popular psychology coalesced to bring a 'cult of motherhood' as well as a 'cult of childhood,' each placing an enormous responsibility on mothers for the upbringing of well-adjusted children. Miller-McLemore explains, "The very idea that improper maternal love could permanently harm a child's development, dictating how they would turn out as adults, was virtually unheard of in the Middle Ages. But by early modernity, children were idealized as precious, delicate, and in need of vigilant and constant care," (Miller-McLemore, 7).

During the Middle Ages, European children were situated in a Christian moral economy, wherein original sin marked all people and childcare givers—both mother and father—emphasized physical, psychological and religious discipline to break the sinful wills of their children. The tradition of locating childcare within a thoroughly Christian framework has survived within American culture, even if it is now marginalized. For example, religious revival was not limited to adults during the Great Awakening.

Jonathan Edwards gives us the example of Phebe, a four-year-old girl whose earnest and intense religious belief was remarkable even within a staunchly Evangelical background. At the dawn of modernity, it was possible for children to fully participate in and exceed the expectations of their religious communities. Children were taken seriously as religious subjects.

To be taken seriously as a religious subject is to be understood as a subject with moral agency. The 'knowing' aspect Miller-McLemore attributes to children supposes that children can knowingly make moral or immoral decisions; in other words, children can willfully and intentionally act virtuously or sinfully. Moral subjectivity presupposes

an idea of sin; to sin is to act (or think) poorly with the knowledge of good and evil.

Parenting also presupposes an idea of sin: children are socialized to learn what is good and what is evil, and are usually punished when they knowingly choose to do wrong. In the Christian tradition, sin is inevitable and thus, forgiveness is paramount. Ostensibly, parents should be quick to forgive a child whose moral framework is still developing.

While an explicitly Christian model for childrearing may be out of vogue, the potential for a language of sin and forgiveness, or brokenness and renewal, could be attractive to many parents.

Moral subjectivity also forms the basis for the idea of social responsibility and thus personhood. To participate within a society as a person, one must be morally responsible; in other words one must be capable of making decisions with the knowledge of good and evil. Innocence of the knowledge of good and evil, on the other hand, robs actions of any intent or meaning and thus actions on the part of those considered innocent are marginalized. To have the knowledge of good and evil, along with other elements of a sophisticated morality—such as an understanding of one’s self, obligations and commitment to others and perhaps to metaphysical, or abstract principles—also empowers one to struggle with difficult questions, and may lead one to answer such questions in ways that are unique or, in other words, subjective. A moral subject may choose to break a law that purports to reflect societal morality for what she understands to be just. A moral subject could go against the wishes of those in authority. A moral subject may depart from authoritative teaching or adhere strictly to it. A moral subject organizes a multiplicity of values, relationships, interests and desires in order to navigate a world of ambiguity. Throughout modernity, children were imagined as innocent beings



in a fallen world. Questions and problems surrounding the place and care of children have resurfaced in a fallen post-modern world without any easy answers. Miller-McLemore insists we attribute moral agency to children; we should no longer imagine them still in Eden, untouched by the knowledge of good and evil. Children as moral and possibly religious subjects demand to be integrated into a fallen world.

Developing a sophisticated morality that is reflexive and can respond to a myriad of ethical challenges may be a life-long work. It is unreasonable to expect a young child to make decisions that have the gravity of life and death. On the other hand, to deny the voice of a developing moral subject in regards to the decisions affecting her life is an abuse of power. Those who have the power to create policy and make decisions have an obligation to listen to those whom their decisions affect. Those whose decisions affect others ought to attempt to separate their own values and interest from those on whose behalf they act; they should not collapse their own interests with those of the other, or presume to know fully what the other's interests are. Below I will describe the legitimate interests of both Christian Science parents and the State in relation to the absent child that produce their response to the sick child. I will consider moral developmental theories as espoused by psychologist Lawrence Kohlberg. I will also offer an alternative in which children as subjects in their own right are palpably present. This alternative approach may offer a new paradigm for thinking about children in a more nuanced and ethically sound way.

### **Christian Science Parents**

An etiology of sickness that departs profoundly from modern western medicine underlies Christian Science spiritual healing. Christian Scientists, by and large, reject the

notion of sickness caused by biological organisms (i.e. viruses and bacteria); rather they understand sickness of the body as physical manifestation of spiritual dis-ease. The Christian Scientist asserts that “what needs to be healed is always a false concept of being, not a material condition. The purpose of turning toward God for healing is therefore not merely to change the evidence before the physical senses but to heal the deeper alienation of human thought from God,” (Christian Science Publishing Society, 239).

Christian Scientists uphold the efficacy of a sincere, deeply reasoned turn towards God for healing based on their theological understandings of God and God’s relationship to humanity. “Prayer reaches out to God as the very Life of man, the eternal Truth transcending and embracing every human circumstance, the Father-Mother of a flawless spiritual universe. This is the vision of reality involved in metaphysical healing,” (Christian Science Publishing Society, 242). According to Christian Science metaphysics, it is never God’s will for one to suffer; in fact Christian Science holds that, “While Jesus himself prayed for submission to his Father’s will, Christianity rests on the conviction that God’s will for him was to triumph over the agony and death imposed on him by men—to triumph spiritually, morally, and physically,” (Christian Science Publishing Society, 248). Failed attempts of spiritual healing do not imply that God willed the failure nor do they imply a limitation of the principle of spiritual healing; failure is caused by “inevitable imperfections in the human practice of Christian Science,” (Christian Science Publishing Society, 240).

Christian Scientists resist any narrow definition of the idea of sin. Sin, very generally, is “belief in a life apart from God,” (Christian Science Publishing Society,

246). In contrast to traditional Catholic and Protestant theologies, sin is not an act or belief that God (or earthly authorities) will punish. Christian Science lacks the idea of divine retribution for sins. Even sickness, which is a result of sin (understood as estrangement from God), is not a punishment for sin; it happens despite the power of divine love and can be remedied through divine love. Because God's will for humanity never includes suffering, the idea of martyrdom seems inappropriate to apply to Christian Science. While the Christian Science Publishing Society did not deal directly with the idea of martyrdom, its statements about Jesus, understood in other Christian traditions as the ultimate martyr, lead me to suspect that the author(s) would not advocate understanding a death involving spiritual healing as a martyr's death. Again in contrast to Catholic and Protestant teaching, Christian Scientists do not locate Jesus' redemptive work on the cross, but rather in his ministry, as he cast out demons and restored vision to the blind. As the tradition's founder, Mary Baker Eddy, puts it, "Now as then, signs and wonders are wrought in the metaphysical healing of physical disease; but these signs are only to demonstrate its divine origin—to attest the reality of the higher mission of the Christ-power to take away the sins of the world," (Christian Science Publishing Society, 6). Furthermore, as already noted above, Christian Scientists believe that God's will for Jesus was to triumph over death and agony, not to suffer for humanity's sins.

Spiritual healing holds a central place in Christian Science life. A physical sickness represents an opportunity to commit oneself further to a God-centered thinking and discipline. Christian Scientists accomplish this change in mind through spiritual healing. The authors of *A Century of Christian Science Healing* assert that "Christian Science is in fact one way of worshiping God" (Christian Science Publishing Society,

241). Furthermore, Christian Science theology applies the principle of spiritual healing to other social commitments: “An individual healing, physical or otherwise, may include the healing of racial or class prejudice, of economic injustice, political bigotry, social indifference, or any one of a thousand forms of moral myopia. If the healing proceeds from a clearer view of man’s relation to God, then it is inevitably a step toward a more unselfed attitude to human life, toward engagement with broader issues,” (Christian Science Publishing Society, 249).

Spiritual healing offers an encompassing practice to heal physical and social ills based on the principle of God’s divine love for all humanity. Spiritual healing helps Christian Scientists navigate relationships between humans as well as human relationship with God. Spiritual healing, then, does not represent an approach to a specific physical ailment; rather, it represents a comprehensive philosophical, theological and moral framework that permeates all spheres of life. First Amendment scholar Catherine Cookson explains, “Rather than merely one among many focal points of life, the religion of the Christian Scientist entails a most serious commitment to a totally integrated spiritual way of life. Christian Science is not simply a theology; it is a radically different worldview which requires not only thoughtful allegiance but also *application*, in the form of demonstrations of practical results in every area of the adherent’s life,” (Cookson, 174). The emphasis on application, by recognizing the efficacy of spiritual healing in what is understood to be an empirical manner, is what is indicated in the appellation *Christian Scientist*.

Spiritual healing may not be fully understood in reference to a modern western category of religion or our modern western categories of ‘knowing’. Our default

assumption is that religion is a set of beliefs taken on faith; one does not come to religion through sensory experience. Talal Asad notes the changes prompted by German Higher Criticism in an appreciation for the Bible:

It has been remarked that the German Higher Criticism liberated the Bible from ‘the letter of divine inspiration’ and allowed it to emerge as ‘a system of human significances.’ We should note, however that the liberation signals a far-reaching change in the sense of ‘inspiration’—from an authorized reorientation of life toward a telos, into a psychology of artistry whose *source* is obscure—and therefore becomes the object of speculation (belief/knowledge). It was a remarkable transformation. For in the former, the divine word, both spoken and written, was necessarily also material. As such the inspired words were object of a particular person’s reverence, the means of his or her practical devotions at particular times and places. The body, taught over time to listen, to recite, to move, to be still, to be silent, engaged with the acoustics of words, with their sound, feel, and look. Practice at devotions deepened the inscription of sound, look, and feel in his sensorium. When the devotee heard God speak, there was a sensuous connection between inside and outside, a fusion between signifier and signified. The proper reading of the scriptures that enabled her to *hear* divinity speak depended on disciplining the senses (Asad, 38).

The tangible sense experience of divinity highlighted by Asad complicates secular notions of religion, knowledge and senses particularly when trying to understand spiritual healing. Healing for the Christian Scientist is the physical manifestation of metaphysical truth; it is a discipline that teaches the ill body what is true of God and pain. Successful

discipline changes the sense experience of the body and how one perceives one's body. The theological proposition that God is all-good and all-in-all, and therefore sickness is false is known through bodily experience, not through a cognized faith alone. This is the "knowing" that informs Christian Science spiritual healing. The modern western medical community has other criteria for establishing knowledge, one that does not take subjective experience of sickness and health as its grounding.

While Christian Scientists do not hold that it is a sin to seek medical attention, such an action would illustrate a breach in the framework out of which they make meaning in their lives and reflect pre-existing human alienation from God according to the Christian Science understanding of sin. Furthermore, relying on medical science may further endanger the person with the spiritual dis-ease because he misunderstands the etiology of their sickness and thus renders invisible his estrangement from God. The biological reductionism of medical science stands in opposition to Christian Scientists' goal to change "from material-mindedness to spiritual mindedness," (Christian Science Publishing Society, 238). Cookson argues that such a suspension of the framework that seeking medical attention causes risks disintegration of that framework, and thus the religious community's identity (Cookson, 171). A disintegrating framework is not only dangerous to the religious community, Cookson argues; it is potentially dangerous for the child as well:

A child is raised, and learns, only within the context of a community: the family and the larger religious community to which the family belongs, and not simply the civic polis... As [Charles] Taylor notes, "A self can never be described without reference to those who surround it." And, indeed, one learns the requisite

moral and evaluative languages which constitute the framework of the child's self only in conversation with one's parents and one's community (Cookson, p. 171).

Cookson theorizes that if the State were to intervene and force parents to suspend the framework under which they live when it comes to raising their child, "the result is a child who develops an inherently contradictory structure/framework. Either way, the child is disoriented at best and 'base-less' at worst," (Cookson, 171).

Furthermore, Christian Science spiritual practice necessarily encompasses childrearing. Because Christian Science is such a totalizing practice, there seems no obvious way to separate being a Christian Scientist from being a parent. Administering spiritual healing to one's child is an act of love; it is both the most efficacious and morally sound form of treatment they can provide for their children as Christian Scientists. According to Christian Science etiology of sickness, pursuing bio-medicine would in fact endanger the child physically and (more importantly) spiritually.

While Christian Science parents necessarily attribute spiritual subjectivity to their children, they do not consider the child outside their own interests as Christian Scientists or whether or not the child is capable of her own spiritual healing. As stated above, a child's illness is understood as an outward manifestation of internal, spiritual dis-ease. This presupposes a spiritual subjectivity or a soul that could be either well or ill. It is not clear, however, who the healing agent is in the spiritual healing of children. Christian Scientist James Richardson states "although it is entirely natural for students of Christian Science to rely on prayer, it is also important, when it comes to the care of children, that Scientists consider well their individual spiritual readiness, their own past experience and record, and the mental climate in which they live," (Richardson, 549).

This statement implies that the spiritual healing of a child is not the child's own spiritual work. It is the parents' spiritual readiness that determines healing. Is the child practicing? Is spiritual healing possible if it doesn't require any spiritual work on the part of the soul that needs healing? How appropriate is it to expect very young children to make a "sincere, deeply reasoned turn towards God"? The absent child looms large here, particularly in the case of young children. Without a confident assertion of willingness and readiness to undergo spiritual healing on the part of the child, Christian Science parents are faced to make a tough decision about how to handle a child's sickness. They must weigh their obligations to the child's spiritual well-being as mandated by their Church and to the child's physical well-being as mandated by the State with little or no reference to the child's will, if such a will could even be imagined. To make such a decision on the behalf of another without reference to her wishes or will is to marginalize the child as a subject in and of herself. Clearly, it may not always be possible to fully consider the child when the child cannot articulate her will. In such cases I argue that Christian Science parents need to reconsider the efficacy of spiritual healing of a child whose spiritual abilities cannot be readily assessed. In the case of young children, parents can only be certain of their own spiritual readiness; this certainty cannot be extended to their children. Perhaps, more emphasis should be put on the *development* of spiritual readiness of the child within a Christian Science framework that takes into account the limitations of the child as a religious subject rather than parents' *performance* of spiritual healing (i.e. process, rather than result). For example, perhaps a Christian Science parent would expect for her eleven-year-old daughter to practice spiritual healing when she has a cold or flu. When a child has a more physically debilitating sickness, perhaps a



Christian Science parent could reconsider the spiritual readiness of her child for a more demanding undertaking. Emphasis on development might also help children and parents alike to understand and mediate competing influences on the child's moral framework.

Christian Science children live in multiple worlds that go beyond their faith communities. Engaged in a secular society, perhaps attending public schools, children are acculturated to norms and ideals that are not consistent with those of their parents. Children accommodate, negotiate and resist competing truth-claims in an on-going process of socialization. In fact, I think Catherine Cookson underestimates a child's resilience and ability to tolerate complexity and ambiguity when she argues that parents who breach their religious commitments for the sake of their children endanger children to a disintegrated framework. Maturation is a process of integrating and disintegrating allegiances and ideals from multiple authorities, including the State. The State too shapes the values of those growing up within its borders, especially through the promotion of nationalist discourse.

### **The State**

Our national narrative, made especially attractive by an articulated commitment to human rights, carries with it the soft hegemony that binds citizens to the State. Our narrative is retold and reformed in light of current events and new problems, but invariably expresses values that have come to define "modernity": individualism, rationalism, secularism and nationalism. The narrative is insidious in the creation of our mental landscape. As anthropologist and religion scholar Peter Gottschalk describes, "Modernity has proven to be an illusive animal to snare in the trap of description. This results in part from the manner in which its constituent elements serve as paradigms for

understanding the world—paradigms so basic to Western interpretation that they are often presumed as looking through one’s eyes,” (Gottschalk, 11). Here I will try to force the eye back on itself, to look at some of the basic values in the teleological narrative that promotes nation-state formation and maintenance, as it occurs within the United States. I will show how these values make it difficult to consider children as moral and possibly religious subjects.

The national narrative is articulated most transparently in the public school history curriculum. “Schools provide a vital socialization role in the pursuit of democratic goals. This role requires that schools help persons acquire the appropriate knowledge and skills needed for citizen participation in a democratic society... Schools then are value-laden institutions by their very function; they must transmit the knowledge, skills and values necessary for survival in an ever-changing society,” (Hersch, et. al, 8). Schools provide resources for the survival of its attendees; schools also promote the legitimacy of the nation-state and thus helps to sustain it. Beginning in kindergarten, students learn the story of the Pilgrims in search of religious freedom on the shores of a new promised land. Early education avoids the term ‘Puritan’, subsuming a particular religious identity and zeal, evoking instead the term for a generic religious traveler with whose pursuit of “freedom” and “self-expression” we come to identify. From the beginning, both historically and in curriculum, the United States is imagined as a beacon of religious freedom. Young students learn the story of struggle of the first years and the celebration of Thanksgiving without reference to the atrocities colonists, later pioneers, and the American government would inflict upon the indigenous populations. Rather as Americans we celebrate the values of industry and cooperation even in the context of

difference. The aspect of difference was especially relevant in my own early post-civil rights era education. Early on, American school children are acculturated to the secular value of (religious) tolerance.

High school history curriculum revisits the story of the early colonists. They were seeking religious freedom, it is agreed in our national narrative, but they were not for religious freedom as a rule. In this retelling, the religious militants are now presented as Puritans, highlighting their religious identity above and against any other identity. They are no longer imagined primarily as the first Americans. Having internalized the value of tolerance, students are scandalized by the violence precipitated on non-Calvinists on American soil. The Salem Witch trials are a dark spot on our history and serve to condemn the theocratic structure that would allow superstition, rather than reason and democracy, to form the basis of governmental law and order. This colonial history is presented as an American parallel to Europe's Wars of Religion and the Catholic Inquisition. Pre-modern religious violence serves as a foil to the tolerance born of the Enlightenment and nurtured by the modern nation-state (in this case, the United States). The stories of American independence and the establishment of a secular government committed to individual rights are linked inextricably with the Enlightenment's political liberalism. The modern-nation state saves individuals from religious tyranny.

The narratives promoted to American youth through public education and national holidays raise questions about the processes of acculturation necessary for the formation of national identity. Religious indifference or neutrality is naturalized within what Stephen Carter has called a "culture of disbelief."<sup>5</sup> In a class discussion on Christian

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<sup>5</sup> Carter, Stephen L. *The Culture of Disbelief: How American Law and Politics Trivialize Religious Devotion*. New York: Anchor Books, 1994.

Science parenting at Macalester College in Fall 2006, many first-year college students echoed concerns that raising children within a tradition outside mainstream culture was a form of “brainwashing”. Such students tend not approach their own worldviews with the same cynicism; they do not acknowledge class, race, political affiliations, and cultural influence as factors in their secular identifications. Most students appear comfortable with religion as a private, individual matter, following a thoroughly Protestant model, but are uncomfortable with outward religious expression, particularly of a public and political manner. They echo the discourse surrounding these court cases: the parent’s right to religion is subordinated to the child’s right to live. The United States can and should fully protect only rights to religion understood as private thought and practice of adults.

Protecting rights to religion is central to the United States’ self-representation in the international community. Talal Asad draws our attention to the way in which the International Religious Freedom Act of 1998 couches the United States’ accommodationist secularism in a language of redemption. I reproduce Section 2, of “Findings,” Asad includes in his work:

(1) The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation’s founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this

legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution,<sup>6</sup> (Asad, 146).

The International Religious Freedom Act configures the United States as a place of refuge. The State accommodates and subsumes multiple religious identities. Asad argues that the State “seeks to free people in this world, giving them the right to choose their religious beliefs, which in a secular world means everything that the modern state can afford to let go,” (Asad, 147). The secular State can accommodate religious freedom because religious belief, following Protestant models, is private and divorced from any direct public action, and thus according to Asad can be “let go.” In *U.S. v. Ballard* (1944),<sup>7</sup> the Supreme Court establishes that religious belief, or the sincerity of which, cannot be judged within a court of law. This landmark case is meant to protect religious belief, and while it does so, it also marginalizes religious belief because it cannot be considered a legitimate basis for any legal statement.<sup>8</sup> Because legally religious belief or knowledge cannot be put through the same rigorous and critical inquiry required for establishing knowledge based on a western scientific model, it is denied any public significance and need not be recognized by the State.

One should note that the State does not “let go,” or allow for all religious expression. Certainly, court cases involving family structure (i.e. early Mormon

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<sup>6</sup> In court cases involving Christian Science parents, does the State understand its role as the redeemer of children suffering religious persecution? Does the transmission of religious sensibility from parent to child represent a sort of religious tyranny, given the dichotomy of power imagined between parents and children?

<sup>7</sup> Guy Ballard was accused of mail fraud when he sent mailings promoting his “I Am” movement. The mailings stated that Ballard had personal contact with Jesus and St. Germain and solicited contributions on the basis of these claims. The prosecution argued that Ballard had knowingly defrauded the public; Ballard’s defense stated that the government could not judge the validity or sincerity of his religious beliefs.

<sup>8</sup> How does conscientious objection complicate this statement? A conscientious objector needs to demonstrate that fighting in a war infringes upon his right to the free exercise of religion. Again, it is not the religious belief itself that grants the objector a legal grounding but his State-given right to religion.

polygamy) and children (i.e. Christian Science spiritual healing and Jehovah Witnesses' refusal of blood transfusion for their children) are issues where religious freedom does not apply; rather, the State's compelling interests with minimal burden of religion or a law's general applicability to citizens trumps claims to religious freedom<sup>9</sup>. This language of State power is mobilized and given ethical content by those (imagined) powerless parties involved (i.e. women and children). The State does not attribute to the presumed powerless a religious subjectivity congruent with the communities in which they live. The impulse is especially well illustrated in the modern, western preoccupation with Muslim women.

Carolyn Moxley Rouse early queries about African American Sunni Muslim women typifies a modern western response to a woman who dons a veil or converts to a thoroughly patriarchic religious tradition:

In 1986, while riding on a bus in Chester, Pennsylvania, in ninety-nine degree weather, I observed a woman walking on the sidewalk and wearing dark brown, polyester *hijab* and veil. She had two young children in tow, a boy and a girl, each with the proper, gendered head coverings: a skull cap for the boy and a scarf for the girl. I thought to myself, "Why would a woman in American choose not to be a feminist?" Or "Why would a woman in America choose not to have choices?" (Moxley Rouse, 1).

In her ethnography, Moxley Rouse lays to rest the question of whether or not conversion to a patriarchic tradition represents "false consciousness" on the part of women converts. Rather she saw that active engagement with, or engaged surrender to, the African

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<sup>9</sup> Ronald B. Flowers, *That Godless Court? Supreme Court Decisions on Church-State Relationships*. Louisville, Kentucky: Westminster John Knox Press, 1994.

American Sunni Muslim community offered African American women increased self-esteem and material benefits for their families and community, and was thus in a sense, liberating in the context of a capitalist and racist society. She shows that this community in its own way engages feminist values and therefore women in this community claim agency.

Saba Mahmood seeks to disentangle the notions of liberation and agency that makes it possible to judge the situations and societies in which women live on the basis of a feminist model. She argues:

...that the normative political subject of poststructuralist feminist theory often remains a liberatory one, whose agency is conceptualized on the binary model of subordination and subversion. In doing so, this scholarship elides dimensions of human action whose ethical and political status does not map onto the logic of repression and resistance. In order to grasp these modes of actions indebted to other reasons and histories, I will suggest that it is crucial to detach the notion of agency from the goals of progressive politics (Mahmood, 14).

Mahmood gives us an alternative way of thinking about agency. She follows Judith Butler and Foucault's notion of the paradox of *subjectivation*: "the very process and conditions that secure a subject's subordination are also the means by which she becomes a self-conscious identity and agent," (Mahmood, 17). In other words, modes of agency are embedded within discursive traditions in which power operates. The possibility for agency exists within structures of power, rather than outside of them.

The notion of moral agency entailed in political and philosophical liberalism, Mahmood suggests, follows a Kantian view of ethics, that is that an ethical act is not

dependent upon one's social context, habits or general character; rather it must be determined by use of reason (Mahmood, 26). The normative subject in Kantian ethics, and thus political liberalism, is of an autonomous, rational agent. For Foucault, on the other hand, ethical formulation depends not on autonomy of the self, but the ability to discipline oneself to a particular moral discourse. Mahmood explains:

For Foucault, ethics is a modality of power that “permits individuals to effect by their own means or with the help of others, a certain number of operations on their own bodies and souls, thoughts, conduct and way of being” in order to transform themselves into the willing subject of a particular moral discourse. Despite his attention to the individual's effort at constituting herself, the subject of Foucault's analysis is not a voluntaristic, autonomous subject who fashions herself in a protean manner. Rather, the subject is formed within the limits of a historically specific set of formative practice and moral injunctions that are delimited in advance—what Foucault characterizes as “modes of subjectivation.” Foucault thus treats subjectivity not as a private space of self-cultivation, but as an effect of a modality of power operationalized through a set of moral codes that summon a subject to refer to the models available “for setting up and developing relationships with the self, for self-reflection, self-knowledge, self-examination, for the decipherment of the self by oneself, for the transformations that one seeks to accomplish with oneself as object,” (Mahmood, 28).

In following Foucault we see that civil and human rights discourse provides the modality of power that shapes the subjectivity of citizens of modern, western nation-states. The discourse of individual rights creates an economy wherein privileges and obligations are



negotiated between citizens and their State, but it also creates certain ways of viewing one's own humanity and thus ethical obligation. In *Discipline and Punish*, Foucault argues that in Western history, punishment is shifted from the retaliation on the part of an offended sovereign to the rehabilitation of the criminal's "soul".<sup>10</sup> The "humanity" of the new economy of punishment legitimizes the modern justice system. Foucault discusses modern punishment and the economy in which it works:

One no longer touched the body, or at least as little as possible, and then only to reach something other than the body itself. It might be objected that imprisonment, confinement, forced labour, penal servitude, prohibition from entering certain areas, deportation—which have occupied so important a place in modern penal systems—are 'physical' penalties: unlike fines, for example, they directly affect the body. But the punishment-body relation is not the same as it was in the torture during public executions. The body now serves as an instrument or intermediary: if one intervenes upon it to imprison it, or to make it work, it is in order to deprive the individual of a liberty that is regarded both as a right and a property. The body according to this penalty, is caught up in a system of constraints and privations, obligations and prohibitions. Physical pain, the pain of body itself, is no longer the constituent element of the penalty. From being an art of unbearable sensations punishment has become an economy of suspended rights. (Foucault, 11)

Foucault establishes here a connection between rights and punishment. Talal Asad further concurs with Foucault as he traces the genealogy of 'natural rights' in

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<sup>10</sup> Here Foucault is drawing on the sentimentality of the penal system reformers; he means more generally the psyche of the offender, which in the early modernizing State was interchangeable with "soul".

Enlightenment thought. “A major theme in seventeenth-century debates about natural rights had to do with *obligation*, a concept that was typically linked to *punishment*,” (Foucault, 131). Rights discourse is mediated through stipulations of law that seek to secure civil order in which breaking the law will “naturally” be punished. Citizens have an obligation to the State because the State secures rights, including rights to religion. The State assumes that its citizens have been socialized to the knowledge of good and evil that the State itself defines and thus recognizes moral subjectivity by punishing wrongdoing. It seems personhood, in this sense, is determined by the State and other international bodies. Talal Asad adds that this economy of rights as being more nationally, than internationally, contrived. He argues that Malcolm X’s attempt to secure full rights by appealing to international bodies was misguided. Asad writes:

[T]he notion that inalienable rights define the human does not depend on the nation-state because the former relates to a state of nature, whereas the concept of citizen, including the rights a citizen holds, presupposes a state that Enlightenment theorists called political society. Human rights, including the moral rules that bind humans universally, are intrinsic to all persons irrespective of their ‘cultural’ make-up. Yet the identification and application of human rights law has no meaning independent of the judicial institutions that belong to individual nation-states (or to several states bound together by treaty) and the remedies that these institutions supply—and therefore of the individual’s civil status as a political subject. (129)

While human rights may be an ideal transcendent of any one political body, their application can only be secured through the power of the nation-state or international

bodies made up of nation-states that create contracts among one another. Rights discourse depends on articulated law. Furthermore, law is what makes rights discourse useful to the State because through law, it claims the power to give and take away the rights of citizens. Thus, the State configures citizens as those whose allegiance and obedience is secured through the promise and precariousness of rights. Citizenship includes being subject to punishment for breaking laws. Not every citizen who breaks the law is considered criminally culpable however. Notions of agency, reason and responsibility inform modern western criminality; so too they inform the category of citizenship and adulthood.

While the process of becoming a good citizen can rightly be thought of as a “mode of subjectivation,” it is often naturalized. A good citizen is not generally thought of as a product of power; rather a good citizen autonomously exercises his rationality in order to calculate ethical action. Autonomous choice also underscores what is meant by religious liberty—the ability for one to follow one’s own conscience. What a political liberal understanding of religious liberty obscures is the formation of such a conscience. In the political liberalist’s schema, religion is an individual matter of choice, not a modality of power that historically shapes ethical formation of individuals. Because religion is understood as an individual choice, religious liberty can only be attributed to those who in the eyes of the State are autonomous, rational individuals (i.e. adults). The American government encodes in law a sharp (though seemingly arbitrary) distinction between the categories child and adult; individuals enter into the latter category from the former on their eighteenth birthday.<sup>11</sup> At the age of eighteen, citizens are given the legal right to speak for themselves. The State recognizes them as autonomous moral subjects.

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<sup>11</sup> There is of course ambiguity in this; individuals are not permitted to drink until they are twenty-one.

Before the event of the eighteenth birthday, it is unclear how to recognize a subject in the Kantian sense. The characteristic of dependency that marks childhood is an obstacle in the way of the State to imagine the child as a moral agent, requisite for claiming rights to religion, thus religious subjectivity.

Currently, trials in which minors are tried as adults for heinous crimes contest the State's conception of childhood. Children's criminality complicates the State's notion that moral agency (the ability to knowingly act morally and immorally) as the standard for adulthood. At the same time, the State has not yet appreciated children as moral agents in a positive light. The right to be punished as an adult has been established, but the right to be treated positively as a moral agent inside and outside a courtroom has not.<sup>12</sup> Because the State does not attribute to children agency that is not altogether destructive, the State understands children as powerless, at risk of abuse. With such a perceived power imbalance and a naturalized secularism, parents' attempts to bring children up within a religious framework can be considered coercive. If such an upbringing threatens a child bodily, it is especially heinous. The State sees children as ultimately dependent upon parents or the State until the age of majority. The State does not recognize the complexity of changing parent-child relationships as the child matures, nor does it have the legal language to recognize "modes of subjectivation" that produce moral subjects in its understanding of religion and religious liberty. There is a clear tension between a legal language that recognizes subjects as autonomous individuals and the social processes—which entail modalities of power, including religious upbringing—

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<sup>12</sup> *Tinker vs. Des Moines* puts a wrinkle in this critique. In this case, the Supreme Court upheld students' rights to free speech by wearing arm bands to protest war that violated the school's dress code. The case has a set a precedent that high school newspapers have with varying degrees of success used to resist censorship.

in creating such autonomous individuals. Certainly, the development of moral subjects is not as clearly delineated as the distinction between legal childhood and the age of majority, a point made clear by moral development theorists, like Lawrence Kohlberg, who emphasizes adolescents as the stage in which most persons develop the moral capacities recognized as adult.

### **Moral and Faith Development**

Following Jean Piaget's work on cognitive development in children, American psychologist Lawrence Kohlberg presents a six-stage theory of moral reasoning. Kohlberg is not interested in the content of moral reasoning (i.e. what one's moral reasoning concludes about a given moral question) but rather the form of that reasoning (i.e. what kind of concerns and motivations one brings to a moral question). James Fowler provides parallel stages of faith development to correspond to Kohlberg's stages of moral reasoning. Because we are interested in moral subjectivity as expressed by children, we may limit ourselves to considering stages 1, 2 and 3.

The first stage of moral reasoning is the pre-conventional, which corresponds with the first stage of faith development, the Intuitive-Projective faith. The cognitive point of view is egocentric. This is not to imply selfishness as a qualitative mark of one's morality; rather during stage one, children have not yet come to appreciate the logic of perspective. "For example, if you ask a group of four year olds which is larger, the sun or the earth, most will say the earth is larger. If you ask how they know the earth is larger, they will probably say because the sun looks so small. ...Ask a group of seven-year-olds the same question, and most will answer that the sun is larger. Inquire how they know the sun is larger when it looks so small, and they will say that it looks small only because it is

far away,” (Hersh et al, 19-20). Persons at this stage of cognitive development think that the way they see things is unambiguously real. The cognitive inability to appreciate perspective gives this stages’ moral reasoning form of heteronomous morality. Persons is this stage will reason that their motivation for doing what is right—and that what is right in generally—is to avoid punishment. Because persons at this stage of moral development cannot consider multiple points of view, Kohlberg argues, their moral reasoning is by default self-centered.

The parallel stage of faith development is Fowler’s Intuitive-Projective is fantasy-filled and typical of children ages three to seven. Hersh writes, “children at this age often fail to distinguish between what is objectively and subjectively real. They simply consider both to be real. Characters in books and on television, dolls and imaginary friends, ghosts and monsters, humans, animals and plants—they all can hear what one is saying, see what one is doing, and threaten one with possible retaliation,” (Hersh et al, 27). The emphasis on imagination marks the first stage of faith development and is clearly associated with the cognitive abilities of those in stage one of moral reasoning.

The second stage of moral reasoning is individualistic; persons in this stage recognized that others have competing interests that may conflict with their own, and are willing to make deals for the benefit of both parties. Persons in stage two have developed the cognitive ability “to distance themselves from their immediate perceptions and look at a problem from a more, distanced, logical perspective,” (Hersh et al, 67), which allows them to role-play in the social realm. Persons in this stage of moral reasoning understand that other people have interests of their own and are willing to compromise in order to

meet their own wants and needs. Joann Wolski Conn describes the corresponding stage of Mythic-Literal faith development:

Marked by increased accuracy in taking the perspective of other persons, those in Stage 2 compose a world based on reciprocal fairness and an immanent justice based on reciprocity. The actors in their cosmic stories are anthropomorphic. They can be affected deeply and powerfully by symbolic and dramatic materials and can describe in endlessly detailed narrative what has occurred. They do not, however, step back from the flow of stories to formulate reflective, conceptual meanings. For this stage the meaning is both carried and "trapped" in the narrative.<sup>13</sup>

Entry into stage three of moral reasoning marks the point at which person can consider the interest of society and institutions as a whole, as well as individual interests. Persons in this stage—adolescents and adults—have achieved the cognitive ability to think in abstractions. It allows for persons to construct a third party perspective: "Taking a third party perspective proves crucial to the development of moral judgment, for it allows the person to perceive how the group will react to his dealing with other individuals," (Hersh et al., 72). This stage involves the consideration and internalization of other's expectations, especially significant others like parents, peers and community. Relationship is of utmost importance in this stage. "Adolescents consider it most important that they can share with a close friend their psychological concerns such as their inner feelings, problems and views of others. They perceive it as necessary that they can trust and rely on a close friend as a partner who understands the needs and reflections

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<sup>13</sup> <http://faculty.plts.edu/gpence/html/fowler.htm>, adapted from Joann Wolski Conn (ed.), *Women's Spirituality: Resources for Christian Development*. (Paulist, 1986), pp. 226-232.

of the self and thus can help solve problems of everyday life. Communication with friends helps adolescents to understand the psychological complexity of the self and the social world.” (Keller, et al., 268). Stage three moral reasoning develops during pre-adolescence; it is the dominant stage during adolescence, and along with stage 4, remains the major stage for most adults in modern western society (Hersch, et al., 72). The corresponding faith stage is the Synthetic-Conventional stage in which interpersonal considerations are also paramount. In this stage one develops a personal myth-narrative which takes into consideration one’s past experience, present obligations and attachments, as well as future aspirations.

Kohlberg’s theory of moral development and Fowler’s corresponding theory of faith development highlights the fluidity between adolescent and adult modes of moral thinking<sup>14</sup>. Furthermore it shows that relationship for both adolescents and adults is of primary concern in ordering moral thought and obligations. As with our consideration of “modes of subjectivation” in creating moral agents, we come across a tension between a normative legal self that is autonomous and a normative psychological self that is embedded in relationships and community. Martha Minnow argues that “[r]ights rhetoric has failed to afford a language supple enough to speak about relationships, affiliations, attachments, and care.” (Shanley, 200). Mary Lyndon Shanley adds that without such a language, it is difficult to satisfactorily capture the complexity of relations among individuals, families, groups, and the State. Law and rights discourse have not yet been

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<sup>14</sup> Kohlberg does not take into account gender or cultural difference in constructing his theory. His subjects were peer groups of males within the same society, culture or sub-culture. While his theory may still hold for determining the form of moral reasoning associated with cognitive abilities, the content of the morality at any given stage I expect would be highly variable. Carol Gilligan, for example, argues that there is a female morality and male morality: “One critical distinction in children’s moral orientations—what Carol Gilligan terms an inclination towards ‘care’ versus an inclination towards ‘justice’—is attributed to this gender-linked difference in children’s initial social experience with their caretakers,” (Damon, William, *The Moral Child: Nurturing Children’s Natural Moral Growth*, New York: The Free Press, 1988, pg. 96.)



able to capture the ambiguity of having agency while in relationships of dependency. However, some ground has been broken towards a more nuanced understanding of children's agency in attempts to secure parental rights in alternative, complex family structures. Child-centered perspectives in family law form a particularly rich base in order to reconsider rights discourse that can negotiate both dependency and moral agency.

### **Alternative Perspectives**

Lyndon Shanley recounts custody cases involving non-traditional families to assess legal frameworks for recognizing family. When biological links may be irrelevant and emotional links tenuous, it is unclear how to determine family. Lyndon Shanley expands on multiple approaches to determine parental custody cases, one of which may yield a discursive practice that acknowledges children as subjects in their own right under the law while still recognizing the dependency implied in childhood. Lyndon Shanley explains, "Because children are ineluctably dependent on adults for their survival and ability to thrive, one of the rights every child has is to have at least one responsible adult designated as his or her parent(s). Another is to have the legal relationship between parent and child protected and sustained whenever possible. Children's rights, in other words, do not necessarily imply atomistic individualism, but may encompass among other things rights to be in relationships," (Shanley, 180). But what relationships should be fostered? Does a child have a relationship with the State that affords protection for children in potentially harmful relationships? What role do race, class, gender and cultural biases play in determining harm? Could the right to relationships include the right to maintain relationships with a religious, ethnic or wider community?

In *Hatching the Egg: A Child-Centered Perspective on Parents' Rights*, Barbara Bennett Woodhouse argues that custody cases should be decided on the basis of the child's perceptions, rather than her parents' competing perceptions of what would be in her best interest. While the State's interest was absent in her analysis, presumably the child-centered perspective would limit the authority of the State as well as that of the parents. Woodhouse examines a custody case involving lesbian co-parents and a sperm donor. Sandra R. and Robin Y. were in a monogamous lesbian relationship when they decided to have a child together. They decided to have a child *vis-à-vis* artificial insemination. They chose Jack R. to be the sperm donor and all adult parties agreed that "Jack would not have parental rights or obligations, and that Jack would allow himself to be known to the child if she ever asked about her biological origin," (Shanley, 182). Sandra gave birth to Cade in May 1980. A year later, Sandra and Robyn decided that they would like to have another child, and that this time Robyn would be the biological mother. They chose Thomas S. as a sperm donor, under the same agreement they had with Jack R. Robyn gave birth to Ry in November 1981. At age five, Cade began to ask about her biological father; the two mothers got in touch with each of the child's biological fathers to arrange a meeting. Thereafter Ry's father, Thomas S., asked permission for Ry visit him on her own and meet his biological family. The mothers denied the request; they worried that this arrangement would undermine Ry's conception of her family<sup>15</sup>, the idea that she and Cade were fully sisters, though they had no genetic relation. They were also worried that Thomas' family would request custody if Robyn, Ry's biological mother were to pass away. Thomas S. petitioned for legal parental rights.

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<sup>15</sup> It's unclear if it is actually Ry's conception or the construction of Ry's conception of her family that is being weighed.

Lyndon Shanley writes, “Where commentators Katherine Bartlett, Brad Sears and Fred Bernstein all argued that legal recognition of nonexclusive parenting status or some visitation rights for “limited” parents like Thomas S. would acknowledge a child’s interest in maintaining relationships with important adults, Woodhouse rejected Thomas S.’s effort to be awarded visitation with Ry on the grounds that it would undermine *Ry’s own understanding* of who constituted her family,” (Shanley, 198, emphasis mine). Woodhouse attributes to Ry the subjectivity necessary to identify family members through abstract and subjectively experienced ideals such as trust and love, rather than on genetic ties. Woodhouse’s perspective grants children unparalleled (and unprecedented) legal power to decided guardianship. This perspective goes beyond traditional “best interests of the child” standard, that while placing the child at the center of concern, invites the projection of adult biases onto those interests. Oftentimes, for example, this standard regularly favors the more economically endowed party, usually the male (Shanley, 197). Woodhouse remarks, “A truly child-centered family law recognizes and sustains the child’s network of care.” (Shanley, 192). But how to assess a child’s network of care,<sup>16</sup> to ensure that it is in the child’s best interest, is a question that continues to loom in consideration of children in loving families that practice spiritual healing.

As of yet there is no easy way to respect parents’ religious subjectivity, the child’s developing religious subjectivity, as well as the child’s biological needs in the case of Christian Science. Trials after the death of a child do little more than produce public

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<sup>16</sup> This question is even more problematic from an international perspective. International human rights intervention invariably brings with it highly skewed power dynamics and possibly incompatible categories of thought and analysis. For example, as Joseph Massad indicates, the question of gay rights may be an irrelevant one in many cultures in which homosexual activity is not equated with homosexuality from a Western perspective (Massad, Joseph. *Re-Orienting Desire: The Gay International and the Arab world*. Durham, NC: Duke University Press, 2002). In the same way, childrearing is a highly diverse practice worldwide. Perhaps Woodhouse’s statement still stands: a child’s network of care should be sustained even if it does not look familiar to a Western observer.

indignation and undeserved humiliation of grieving parents. I advocate for pre-emptive measures to ensure the health and safety of children within the Christian Science community; the measures would necessarily need to be collaborative between the community and government officials; they should honor the parents as primary caregivers and allow children the greatest possible visibility and voice in determining that care. Questions of a child's religious gifts for self-healing in respect to age and maturity should be considered from the child's articulated vantage point. The child should be made aware of the seriousness of the disease and healing options from a bio-medical perspective. Children of appropriate age should be given every opportunity to make an informed decision in reference to their own subjectivity, whether Christian Science or not. Over multiple discussions of the topic, Paula Cooley argues for a rights discourse that strongly articulates obligation.<sup>17</sup> The right to have a say in a child's life entails the obligation to listen to that child. The judge and the social worker have the right to advocate on the part of children; this obligates them to listen first to children. We must also consider that trying to attribute moral and religious subjectivity to children is in itself a construction and a projection of interests upon the child, not dissimilar from the projections on the part of the State and parents. Cooley argues that despite the construction of this practice, "attributing spiritual agency or subjectivity to children is more ethical because it concurrently attributes values and interests to children apart from all other interests and concerns."<sup>18</sup>

Christian Science court cases and the media surrounding them demonstrate the difficulty to recognize children as moral and possibly religious subjects in American

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<sup>17</sup> Also see: Cooley, Paula. *Family, Freedom and Faith: Building Community Today*. Louisville, KY: Westminster John Knox Press, 1996. pg. 89-104.

<sup>18</sup> Discussion, 1/9/07

society. Without an appreciation of the child as a subject capable of moral and religious thought and action, the child is socially marginalized—that is, she becomes the site where others present their own moral and religious thought and action. She enters an arena wherein adults advocate on her behalf according to their own interests and thus she is vulnerable to mistreatment. *We must assume children would speak given the opportunity and an audience willing to listen.* Those in power have an obligation to be such an audience.

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## Bibliography

Asad, Talal. *Formations of the Secular: Christianity, Islam and Modernity*. Stanford, CA: Stanford University Press, 2003.

Asad attends to the concepts and practice underling modern, secular culture. He discusses the construction of pain and what kind of pain is permissible in modern thought. He understands human rights discourse to be one of conquest, a myth that must be made real for everyone, even those who may not want it. He also understands the link between human rights discourse and the formation of national identity.

*Blessed are the Lukewarm: Religion is Okay with the Courts, so Long as it Doesn't Mean Anything*. Christianity Today, Vol. 48, 2004.

This article suggests that U.S. courts define religion narrowly and are thus hostile to many forms of religion. For example, the author discusses the definition of a religious employee in the context of Catholic charity groups dissenting from a Californian state law that requires businesses provide medical insurance to cover their employees birth-control method. The author is disturbed by the courts wandering definitions of religion that he sees as a tool in propagating the sexual ethics of the left.

*Americans United Urges Court to Reverse Judgment Against Church*. Church and State, Vol. 47, 1994.

This news brief flags an interesting case in which Mr. Lundman sues Mrs. McKown and the Christian Science Church for the wrongful death of his son, Ian Lundman. Americans United lobbied against suing the Church, arguing that you can not hold a religious institution liable for the acts of its parishioners. I do not know how that case was decided.

"Suffering Unrelieved." *The New York Times*, August 6, 1990.

This article presents a sensationalist view of the court cases. It draws attention to the pain the children (may have) suffered during their illnesses and ultimately in dying and demands parents be brought to justice for this suffering. Perhaps some interesting connections can be made between this article and Talal Asad's assertion that secular Western society has an aversion to pain that is understood as gratuitous. Elaine Scarry's thesis on the incommunicability of pain may be partly subverted in the article. The article does not consider the pain felt by the parents now grieving for their lost children.

*Court Shields Parents*. *The Christian Century*, Vol. 109, 1992.

A news brief on the Lundman case: the Supreme Court lets the ruling favoring the Lundmans stand. The court decides prosecuting the Lundmans is an infringement of their due process rights because of the Minnesota state statute protecting spiritual healing.

*Twitchells found Guilty*. *The Christian Century*, Vol. 107, 1990.

A news brief on the Twitchell case. The Twitchells were found guilty of manslaughter on July 4, 1990. Judge Sandra Hamlin recommends that the Christian Science practitioners as well as church spokesman Nathan Talbot be charged with accessory to manslaughter for their role in Robyn Twitchell's death. She also instructed the jurors that "'subjective belief in healing by prayer' is no excuse for not obtaining medical help when a child is seriously ill." The Twitchells were sentenced with ten years probation and must submit their three other children to regular medical exams and medical doctor visits when they are ill.

Albanese, Catherine L. "Physic and Metaphysic in Nineteenth-Century America: Medical Sectarrians and Religious Healing." *Church History* 55, no. 4 (Dec., 1986): 489-502.

Albanese surveys the philosophical and historical context in which Christian Science found a home. She argues that "nature religion brought a persuasive theology, a way of viewing penultimates and ultimates that emerged from successful therapeutic experience and also shaped experience with metaphysical notions," (490).

Bivins, Jason. "*Religion*" and *Religions in Legal Theory*. *Religious Studies Review*, Vol. 29, 2003.

"If the construction of 'religion' risks establishing a normative hierarchy of acceptable practice and belief, then it is worth attending closely to one of the most powerful mechanisms of such construction: the law." Bivins reviews four books concerned with the free exercise clause and law. Each work demonstrates that judicial institutions make ontological assumptions about "religion" that may not have much, if anything, to do with the practitioners involved in the cases. Bivins specifically reviews Catherine Cookson's *Regulating Religion* in which she offers a critical analysis of state courts in Christian Science cases.

Cookson, Catherine. *Regulating Religion: The Courts and the Free Exercise Clause*. Oxford: Oxford University Press, 2001.

Cookson demonstrates the many assumptions courts hold when trying Free Exercise Clause cases. She devotes a chapter to Christian Science court cases in which she shows that biomedicine is privileged as the 'Sole Possessor of Truth,' Christian Science is judged against other Christian denominations institutional structures and theologies, and that there is no regard for the Christian Science communities in which children live and form identities.

Cunningham, Raymond J. "The Impact of Christian Science on the American Churches, 1880-1910." *The American Historical Review* 72, no. 3 (Apr., 1967): 885-905.

I hope this article will give me some idea of how the Christian Science Church has been received over the years. What is the relationship between the racial, class, and gender make-up of the church and the opinion of the church in society? Has Christian Science theology impacted other denominations' theology?

Damon, William. *The Moral Child: Nurturing Children's Natural Moral Growth*. New York: The Free Press, 1988.

Edwards, Jonathon. *The Great Awakening*, edited by C. C. Goen. Vol. 4. New Haven, CT: Yale University Press, 1972.

In his chapter on "Notable Converts", Jonathon Edwards recalls the story of Phebe, a young girl who has God constantly on her mind. She is desirous for a relationship with God that will ensure her salvation and is joyous when she "can now find God." She practices daily catechism, preaches to her peers and often weeps over the heavy spiritual truths she has encountered. What is truly remarkable is that, at least in the way Edwards presents the story, Phebe has come to spiritual quickening largely on her own, perhaps with the help of her brother, also a child. While clearly she has



grown up in an evangelical household that attends Edwards' sermons every Sunday, Phebe's spiritual maturity has surpassed the expectations of her parents and her community. This story presses the idea of children as moral and spiritual agents that is largely overlooked in modern religious and secular discourse, and therefore is a valuable resource for my thesis.

Fellmeth, Robert C. "Child Rights and Remedies: How the U.S. Legal System Affects Children." Atlanta, Georgia: Clarity Oress, 2002.

This source tracks public policy and legal decisions impacting the nature of social work, child custody, education, child labor in America. Religious controversy is not considered in this account.

Feinberg, Joel. *Freedom and Fulfillment: Philosophical Essays*. Princeton, New Jersey: Princeton University Press, 1992.

Flowers, Ronald B. *That Godless Court? Supreme Court Decisions on Church-State Relationships*. Louisville, Kentucky: Westminster John Knox Press, 1994.

This is a very helpful source in tracking the oscillating attitudes towards Church-State issues as exemplified by the Supreme Court. Flowers advocates non-intervention of the government in religious faith and expression and opposes governmental support of religion in forms such as school prayer. He understands such support as limiting the freedom of religion because religious institutions no longer have primary control of religious education.

Foucault, Michel. *Discipline and Punish: The Birth of the Prison* Translated by Alan Sheridan. New York: Vintage Books, 1977.

How do institutions that discipline or punish create power for governmental institutions? I more interested in the way many Americans are disciplined to think about their bodies and thus practices of healing.

Gottschalk, Stephen. *Spiritual Healing on Trial : A Christian Scientist Reports*. The Christian Century, Vol. 105, 1988.

Gottschalk brings to light the issue of medical dogmatism. Christian Science spiritual healing is scrutinized in terms of its failures whereas biomedicine is not. How can spiritual healing be judged in a scientific age? Can the

theological/pseudo-scientific (I realize that by calling it this, I am devaluing it) claims that Gottschalk makes be considered in a secular court of law?

Hersh, Richard, Diana Pritchard Paolitto and Joseph Reimer. *Promoting Moral Growth: From Piaget to Kohlberg*. New York: Longman, Inc., 1979.

Hubert H. Humphrey, Attorney General, St. Paul, Minnesota, and Michael Freeman, Hennepin County Attorney, Michael Richardson, Assistant County Attorney, Hennepin County Attorney's Office, Minneapolis, Minnesota, for appellant. Peter J. Thompson, Thompson & Lundquist, Minneapolis, Minnesota (for Kathleen McKown), and Ronald J. Riach, Peterson, Franke & Riach, Roseville, Minnesota (for William McKown), for respondent. *State of Minnesota, Petitioner, Appellant, v. Kathleen Rita McKown* 1991.

Kathleen Rita McKown is tried for manslaughter of her son, Ian Lundman, in Minnesota. Charges are dropped on due process claim. A clause protecting Christian Science parents from child neglect charges leads to confusion of the reading of manslaughter legislation under which McKown is tried. Rather than taking on deeper issues of the first amendment, parents' or children's rights, the court decides the case on technicality. This court opinion eludes to the fact that legislation will be enacted in Minnesota to help solve this problem. I agree with the court's decision that charging McKown is a violation of her due process rights, but unfortunately, wider concerns are not addressed.

Hughes, Richard A. "The Death of Children by Faith-Based Medical Neglect." *The Journal of Law and Religion* XX, no. No. 1 (2004-2005): 247-266.

Hughes comes close to a class analysis of the differential status of religious healing in American society. He contrasts the lobbying ability of Christian Science with the political marginality of groups like the Free Assembly. He does not argue that these lower class religious groups should have share in the same legal protections as Christian Scientists; rather, he argues that none of these groups should have legal protection under child endangerment mandates, regardless of their class standing.

Keller, Monika, Fang Fuxi and Fang Ge. "Self in Relationship," in *Moral Development, Self and Identity*, ed. Daniel K. Lapsley and Darcia Narvaez. London: Lawrence Erlbaum Associates, Publishers: 2004.

Lewin, Tamar. "When it's One Absolute Right Against another." *The New York Times*, May 29, 1988, 1988, sec. E18.

This article presents a more complicated view of these cases than "Suffering Unrelieved". However, it relies on a rights discourse that includes only the right of the state to intervene on behalf of children's health and the rights of the parent to practice his or her religion. It does not consider a fuller children's rights agenda that would give children spiritual and moral agency.

Mahmood, Saba. *Politics of Piety: The Islamic Revival and the Feminist Subject*. Oxford: Princeton University Press, 2005.

Margolick, David. "In Child Deaths, a Test for Christian Science." *The New York Times*, Aug. 6, 1990, 1990.

David Margolick gets it right: "The prosecutions, like many historic constitutional cases, represents a clash of apparent absolutes: of religious liberty and parental autonomy on one hand, and the right of the state to protect children- and the rights of the children themselves- on the other." All of these issues are at odds in the court cases, but perhaps Margolick is too quick to align the state and children's rights. He also points to another issue in these cases: Christian Scientists are nice, middle-class people as a prosecutor in Sacramento said. Is a class analysis valuable in understanding these court cases in comparison to other religious groups, as Richard Hughes has unwittingly done? What difference does it make in the justice system that these parents are white, middle-class, and otherwise law-abiding citizens that seem to have loved their children very much? What difference does love make in these cases?

Miller-McLemore, Bonnie. *Let the Children Come: Reimagining Childhood from a Christian Perspective*. San Francisco: Jossey-Bass, 2003.

Bonnie Miller-McLemore recognizes a need to reconsider childhood in a postmodern world in which the idea of an innocent child is no longer helpful in child-rearing, pop psychology or Christian ethics. She promotes a more complicated view of children as "imperfect, even potentially volatile...in an imperfect, volatile world" (pg. 22). Furthermore, she ascribes to children moral and spiritual agency, recognizing that children are capable of making both moral and immoral judgments and to think in complex ways about this world and beyond. Her work has great implications for the study of religion, child rearing as well as children's rights advocacy, and thus for court cases involving the deaths of Christian Science children.

Moxley Rouse, Carolyn. *Engaged Surrender: African American Women and Islam*. Las Angeles: University of California Press, 2004.

Rafford, Robert. *Spiritual Healing and the Law*. The Christian Century, Vol. 105, 1988.

Rafford rebuts Gottschalk's article arguing that the "Commonwealth of Massachusetts, acting *in loco parentis*, have the obligation to safeguard the welfare of children whose medical care has been or will be withheld by parents who pursue a course of spiritual healing and to prosecute those who have failed to provide medical care."

Richardson, James. *Christian Science Spiritual Healing, the Law, and Public Opinion*. The Journal of Church and State, Vol. 34, 1992.

Richardson provides a synopsis of seven contemporary cases in which Christian Science parents have been charged with various crimes after the deaths of their sick children. It shows the inconsistency of trials on a state-to-state basis and other controversies therein. He also gives a window on public opinion on these cases; the public consensus is that these cases are about protecting children, not restricting first amendment rights.

Schoepflin, Rennie. *Christian Science on Trial: Religious Healing in America*. Baltimore, Maryland: The John Hopkins University Press, 2003.

Schoepflin gives a historical account of Christian Science and its inconsistent encounter with dominant society, showing both accommodating and reactionary impulses to medical advances and public health initiatives. The article demonstrates diversity within the Christian Science polity.

Schrager, Cynthia D. "Mark Twain and Mary Baker Eddy: Gendering the Transpersonal Subject." *American Literature* 70, no. 1 (Mar., 1998): 29-62.

This article shows the gendered Mark Twain adopts to discredit Mary Baker Eddy as a philosophical thinker and founder of a religion.

UN General Assembly. *Declaration of the Rights of the Child*. 1386(XIV). (20 November 1959).

The UN General Assembly puts forward a comprehensive account of the rights of the child that includes both bodily integrity and spiritual and moral and spiritual

development. The declaration has not been ratified by the United States and has not made much impact on the rights discourse surrounding Christian Science court cases. We may question, like Talal Asad, an international declarations impact on human rights as they are granted by the nation-state rather than international or transnational institutions.